



Comptroller General
of the United States
Washington, D.C. 20548

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Decision

Matter of: Foster Dixiana
File: B-258849
Date: December 27, 1994

DECISION

Foster Dixiana protests the award of a contract to Virginia Materials by the Department of the Navy under request for proposals (RFP) number N00181-94-R-0127 for abrasive blasting grit.

We dismiss the protest as untimely.


The RFP, issued August 17, 1994, provided that the blasting grit sought by the solicitation must have been previously approved for inclusion on the applicable qualified products list (QPL). Virginia Materials' product has been included on the QPL since 1993. On April 20, 1993, Foster Dixiana protested to the Navy a previous award to Virginia Materials for the same blasting grit on the basis that Virginia Materials' product was not properly on the QPL. The Navy denied this protest on June 25, 1993; Foster Dixiana did not protest the Navy's action to our Office. Since Foster Dixiana's initial protest to the Navy, the two firms have competed several times for blasting grit awards from the Navy.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests not based upon alleged improprieties in a solicitation must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1994). Our timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.--Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. In order to prevent those rules from becoming meaningless, exceptions are strictly construed and rarely used. Id.

Here, as noted above, Foster Dixiana knew the basis of its protest at least as early as April 20, 1993, when Foster Dixiana protested to the Navy the inclusion of Virginia Materials' product on the QPL. Foster Dixiana's objection

to Virginia Materials' product's QPL inclusion more than a year later is untimely. To be timely, Foster Dixiana's protest to our Office of the inclusion of Virginia Materials' product on the QPL was required to have been filed within 10 working days of the date that Foster Dixiana learned of the 1993 denial of its agency-level challenge. See 4 C.F.R. § 21.2(a)(3); Crouse-Hinds Joy Molded Prods.--Recon., B-242237.2; B-242238.2, Jan. 30, 1991, 91-1 CPD ¶ 96.

The protest is dismissed.


James A. Spangenberg
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